

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/21987

A. CLASSIFICATION OF SUBJECT MATTER

IPC: G09B 19/16(2006.01),G09B 9/08

USPC: 434/34

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 434/29.34,55,59.247.365; 472/68; 128/202.11.202.12,205.16; 95/8; 62/259.1; 706/12; 52/6

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

Please See Continuation Sheet

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document. with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6,565,624 B2 (KUTT et al) 20 May 2003 (20.05.2003), see from column 3, line 5 to column 4, line 2; from column 4, line 43 to column 5, line 35; from column 7, line 54 to column 10, line 17; column 11, lines 6-43.	1-5,34,35
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Y		6-33,36-39
Y	US 5,490,784 A (CARMEIN et al) 13 February 1996 (13.02.1996), see Fig. 1.	1-9
Y	US 2002/0083025 A1 (ROBARTS et al) 27 June 2002 (27.06.2002). see paragraph [0056], paragraph [0206], and paragraph [0223].	1-39

☐ Further documents are listed in the continuation of Box C.

☐ See patent family annex.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T"

later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X"

document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y"

document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&"

document member of the same patent family

Date of the actual completion of the international search

30 January 2007 (30.01.2007)

Date of mailing of the international search report

29 MAR 2007

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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Authorized officer

Joe H. Cheng
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Sharon T. Greene for

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US04/21987

Continuation of B. FIELDS SEARCHED Item 3:

EAST

search terms: pressure vessel or chamber or enclosure. hermetic seal, on-board interface or processor, air pressure, sensor, blower, proportioning valve. altitude conditioning, atmospheric pressure. external or master controller, kiosk, payment

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
C. AMY SMITH
PAUL, HASTINGS, JANOFSKY & WALKER LLP
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Applicant's or agent's file reference 38609.004.WO		Date of mailing (day/month/year) 29 MAR 2007
International application No. PCT/US04/21987		International filing date (day/month/year) 09 July 2004 (09.07.2004)
International Patent Classification (IPC) or both national classification and IPC IPC: G09B 19/16(2006.01),G09B 9/08 USPC: 434/34		Priority date (day/month/year) 11 September 2003 (11.09.2003)
Applicant CVAC SYSTEM, INC.		

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43 <i>bis</i> .1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Date of completion of this opinion 14 March 2007 (14.03.2007)	Authorized officer Joe H. Cheng Telephone No. (571) 272-3750
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/21987

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

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PCT/US04/21987

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>6-33 and 36-39</u>	YES
	Claims <u>1-5, 34 and 35</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-39</u>	NO
Industrial applicability (IA)	Claims <u>1-39</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-5, 34 and 35 lack novelty under PCT Article 33(2) as being anticipated by Kutt et al (U.S. 6,565,624 B2). The teaching of Kutt et al broadly discloses the pressure vessel unit and method for providing the cyclic variations in altitude conditioning comprising the hermetic sealed pressure vessel (50) having the on-board interface (column 5, lines 16-35) for the user to initiate a session of cyclic variations in altitude conditioning and to determine the measured parameter of the user's body condition for cyclically operating the blower to create a negative pressure or cyclically operating the proportioning valve to reduce the negative pressure (column 5, lines 11-15), the pressure transducer for monitoring the air pressure inside the pressure vessel (column 5, lines 9-10), and the user sensor for measuring one or more parameters of a user's body condition (column 5, lines 1-2). See Figs. 14-18 and from column 3, lines 5 to column 4, line 2, from column 4, line 43 to column 5, line 35, from column 7, line 54 to column 10, line 17, column 11, lines 6-43.

Claims 6-9 lack an inventive step under PCT Article 33(3) as being obvious over Kutt et al (U.S. 6,565,624 B2) in view of Carmein et al (U.S. Pat. No. 5,490,784). It is noted that the teaching of Kutt et al does not specifically disclose the external master controller (as per claim 6) as required. However, the teaching of Carmein et al broadly discloses that such feature of the external master controller (35) for electrical communicating with the on board interface to monitor and control the function of the vessel (20) is old and well known. Hence, it would have been obvious to one of ordinary skill in the art to modify the apparatus of Kutt et al with the feature of the external master controller as taught by Carmein et al as both Kutt et al and Carmein et al are directed to the pressure vessel unit, so as to provide the electrical communication with the on board interface to monitor and control the function of the vessel.

Claims 10-33 and 36-39 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Robarts et al (U.S. 2002/0083025 A1). It is noted that the teachings of Kutt et al and Carmein et al do not explicitly disclose the kiosk controller (regarding to claims 10 and 24), the second kiosk controller (regarding to claims 23, 27 and 28), and require the user to pay for a session (as per claims 24 and 36-39) as required. However, the teaching of Robarts et al broadly discloses that such features of using more than one of the kiosk controller in different location (see paragraph [0056]) and require the user to pay for a session (see paragraph [0206] and [0223]) are old and well known. Hence, it would have been obvious to one of ordinary skill in the art to modify the system and method of Kutt et al and Carmein et al with the features of the kiosk controllers and required payment from the user as taught by Robarts et al as both Kutt et al, Carmein et al and Robarts et al are directed to the system and method for cyclic variations in altitude conditioning, so as to provide the different location of the kiosks for the user to pay the payment for a session of cyclic variations in altitude conditioning in the system.

Claims 1-39 meet the criteria set out in PCT Article 33(4), and thus claims 1-39 meet the industrial applicability because the subject matter claimed can be made or used in industry.

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INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/21987

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

The drawings are objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or content thereof: The drawings must show every feature of the invention specified in the claims. Therefore, the claimed structural element of the user sensor, the first software program, the second software program, the information processing system, and a second kiosk controller, and all the claimed method steps, *inter alia*, making a system for cyclic variations in altitude conditioning available to a user, allowing the user to pay for a session of cyclic variations in altitude conditioning in the system via the entry of payment information relating to the user into the kiosk controller, evaluating and classifying cyclic variations in altitude conditioning, and enabling the user to successfully complete a set-up session in a pressure vessel, must be shown or the feature(s) canceled from the claim(s)..

Claims 10-39 are objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The description of all the claimed method steps, *inter alia*, making a system for cyclic variations in altitude conditioning available to a user, allowing the user to pay for a session of cyclic variations in altitude conditioning in the system via the entry of payment information relating to the user into the kiosk controller, evaluating and classifying cyclic variations in altitude conditioning, and enabling the user to successfully complete a set-up session in a pressure vessel, and the claimed structural elements of the kiosk controller comprising first software program and the information processing system, the master controller comprising the second software program and the information processing system, and a second kiosk controller are lacking. Without a clear description of the claimed invention, one ordinary skill in the art cannot practice the invention without undue experimentation.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/21987

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the questions whether the claims are fully supported by the description, are made:

Claims 10-39 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because claims 10-39 are indefinite for the following reason(s): The recitation therein is unclear, confusing and indefinite, because the references for all the claimed method steps, *inter alia*, making a system for cyclic variations in altitude conditioning available to a user, allowing the user to pay for a session of cyclic variations in altitude conditioning in the system via the entry of payment information relating to the user into the kiosk controller, evaluating and classifying cyclic variations in altitude conditioning, and enabling the user to successfully complete a set-up session in a pressure vessel, and the claimed structural elements of the kiosk controller comprising first software program and the information processing system, the master controller comprising the second software program and the information processing system, and a second kiosk controller are unclear.